

REMARKS

Claims 1, 4 and 6-26 are currently pending in the application. Claims 1, 4 and 6-26 were rejected.

The Examiner rejected claims 1, 6, 21, 22, 25, and 26 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,249,772 (Walker) in view of CED's Subsidized TV Sets by Jeffrey Krauss (Krauss). The Examiner also rejected claims 4, 7-20, 23, and 24 over Walker and Krauss in view of a variety of additional references. The rejections are respectfully traversed.

Walker teaches a system for facilitating online transactions. Krauss refers to the general notion of a third party subsidizing transactions between consumers and, for example, cellular phone companies or cable television operators. The Examiner alleges that the conventional concept of a subsidy (which has existed for centuries) cures the deficiency of the Walker reference which does not disclose the key limitations of the main independent claims of the present application. The Applicants respectfully disagree.

The present invention as recited, for example, in claim 1 provides visibility into an ongoing online transaction between two parties to interested third parties, i.e., "providing information relating to a transaction between a first party and a second party to a third party via the wide area network." In addition to this visibility, the present invention also provides the capability for the third party to intervene in the transaction via online mechanisms to help the transaction progress, i.e., "enable the third party to facilitate consummation of the transaction between the first and second parties by transmitting a counteroffer or an acceptance from the third party to the first party via the wide area network, and enabling the third party to cover at least part of a difference between the bid and ask prices."

These important aspects of the claimed invention go well beyond the generic notion of a subsidy as mentioned by Krauss. That is, the subsidies to which Krauss refers are previously negotiated agreements between the third party, e.g., Circuit City, and the service provider, e.g.,

the cellular phone company. There is no online visibility provided into specific transactions between consumers and the service provider. Neither is there a suggestion that the third party be allowed to intervene in any way in a specific pending transaction.

And simply because Walker provides a sophisticated transaction platform, it does not follow that any of these key limitations would be obvious from the well known concept of a subsidy. To the contrary, because the general notion of a subsidy has been so well known for so long, the fact that Walker fails to even suggest such a capability in its highly sophisticated transaction platform speaks volumes. That is, if it would have been obvious to include such a functionality into a system like Walker's, why was it not suggested in any way in Walker's very detailed description?

The rejection of the claims of the present application over the combination of Walker and Krauss is a textbook example of the use of impermissible hindsight by the Examiner. And not only do each of the references lack the motivation to combine their respective teachings, their combined teachings fail to teach explicit limitations in the claims.

For example, neither of the references teaches enabling the third party to both view a specific online transaction and to facilitate consummation of that transaction in the manner claimed. As discussed above, the very general teachings of Krauss are clearly deficient in this regard. In addition, the Examiner's reference to the blocks shown in Walker's Fig. 1 do not provide the necessary teachings. That is, simply because the blocks to which the Examiner referred show "structural relationships for communications/actions," it does not follow that the specific functionality claimed in the present application is obviated.

The Applicants respectfully request that the Examiner provide references which teach the claimed functionality or, alternatively, withdraw the rejections.

In view of the foregoing, the rejection of claim 1 (and all claims dependent on claim 1 directly or indirectly) over the combination of the Walker and Krauss references is believed

overcome for at least the reasons discussed. The rejection of claims 25 and 26 is also believed overcome for similar reasons.

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (510) 663-1100.

Respectfully submitted,
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A handwritten signature in black ink, appearing to read 'Joseph M. Villeneuve', with a long horizontal flourish extending to the right.

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